

OFFICE OF THE STATE ATTORNEY, TENTH JUDICIAL CIRCUIT

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July 12, 2013

Via hand delivery

Chief Lisa Womack
Lakeland Police Department
219 N. Massachusetts Ave.
Lakeland, FL 33801

RE: Lakeland Police Department investigation
of CF12-010253-XX

Dear Chief Womack:

Unfortunately, I have to again inform you of another case involving your department where LPD officers have conducted an insufficient investigation. In this case, a Lakeland business owner and victim of a violent crime, depended on LPD to investigate and solve a case where his business was robbed. Your officers conducted a minimal investigation and wrote the case off as a misdemeanor. The officers failed to obtain crucial evidence, documented incorrectly the version of the events and simply gave up on tracking down those responsible. It wasn't until the victim contacted the Polk County Sheriff's Office that anything significant was done to investigate the case. Ultimately, due to the poor and incomplete investigation, the defendant was acquitted at a jury trial. During that jury trial, the defendant (not the State) called the LPD officer as his lead witness to defend the charges.

The events of this case are as follows. During the early summer months of 2012, several young men frequented the Lakeland Gun and Pawn Shop on S. Florida Ave and the owner of the store, Mark Williams, developed a casual business rapport with the group of young men. On June 16, 2012, two of these young men entered Lakeland Gun and Pawn, smashed a glass case containing several antique firearms, and stole a firearm. Mr. Williams called 911, and at approximately 12:08 Lakeland Police Officers Nicholas Pollice and Clifford Darrington responded to the scene. At the time, the incident was classified as a robbery and theft of a firearm.

There were several deficiencies in Officer Pollice's initial investigation:

- Despite the severity and violent nature of the crimes reported, Officer Pollice only spent an hour and seven minutes investigating the incident;
- No photographs were taken of the damaged glass case;
- The antique iron used to crash the glass case was not taken into evidence nor was it dusted for fingerprints;
- Officer Pollice failed to obtain a written or taped statement from the victim;
- Officer Pollice classified the incident as a criminal mischief. Officer Pollice and the Lakeland Police Department failed to conduct a follow up investigation.
- Six days later Officer Pollice wrote and submitted an approved report about the incident. In that police report, Officer Pollice stated that the victim did not know what firearm was taken and that all the firearms in the case were inoperable. The officer's report contained several inaccuracies.

The crime went unsolved until November 2012, when Mr. Williams saw television coverage of the Lakeland Farmer's Market shooting. Mr. Williams' case and the Farmer's Market shooting contained many similarities. Additionally, the defendant ultimately charged in Mr. Williams' case is a relative of one of the defendants in the Farmer's Market shooting. Concerned that the suspects in that incident used the same modus operandi, Mr. Williams contacted the Polk County Sheriff's Office, who was investigating the incident at the Farmer's Market. Polk County Sheriff's Office Detective Radabaugh, developed Sedrick Johnson Jr. as a suspect in the theft from Lakeland Gun and Pawn. The Polk County Sheriff's Office contacted LPD and urged your agency to investigate the incident from June 2012 more thoroughly. On November 26, 2012, detectives from the Polk County Sheriff's Office and the Lakeland Police Department responded to Lakeland Gun and Pawn to perform a photographic lineup with Mr. Williams. Mr. Williams immediately positively, and with no uncertainty, identified Sedrick Johnson Jr. as one of the men who entered his store on June 16, 2012 and stole the firearm. Following the positive identification, Detective Christina Barrett of the Lakeland Police Department wrote a charging affidavit and obtained an arrest warrant for Sedrick Johnson Jr. It was at this time, over five months after the incident, that the antique iron used to smash the glass was taken into evidence. Unfortunately, Office Pollice failed to consider this key piece of evidence.

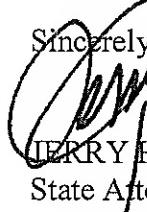
On November 26, 2012, Detective Barrett obtained a sworn taped statement from the victim, Mr. Williams. Williams stated, under oath, that he knew exactly which firearm was stolen and that it was operable. This is contrary to what Officer Pollice wrote in his report. In discussions with prosecutors, and during a deposition conducted by the defense attorney, Mr. Williams was clear that he never made the statements contained in Officer Pollice's report.

Unfortunately, the problems with the case were not limited to Officer Pollice. On April 24, 2013, the case was set for trial the week of July 8, 2013. In preparation for trial, the State Attorney's office discovered deficiencies with Detective Barrett's investigation.

- In her report, there is no mention of an audio recording of the defendant's post-Miranda interview, nor is the audio recording listed on the property and evidence log. However, in meeting with prosecutors the day before trial, Detective Barrett disclosed the audio recording. Because the detective waited until the day before trial to inform my office that she had recorded the defendant's statement, we were unable to use the recording at the jury trial. As you are aware, the defendant in a criminal case is entitled to advance notice of the evidence against him. Not being able to play the recording in court was detrimental to the case;
- In the audio recording, Sedrick Johnson Jr. is heard being instructed to sign a Miranda Rights Waiver form. When Detective Barrett was questioned regarding the location of the Miranda form by prosecutors, she simply responded that it was not in property and evidence and she did not know where it was. Much to the surprise of prosecutors (and with no notice to the state), Detective Barrett arrived with the Miranda Rights Waiver form the morning of trial with no explanation of why she wasn't able to find it the day before in the LPD evidence room;
- On the property and evidence log, Detective Barrett listed the firearm as being stolen and recovered, and therefore, in the LPD property and evidence room. The gun in this case was never recovered. When my office questioned the detective why she listed a gun on the evidence report that had not been recovered, she was unable to explain why she listed the gun on the report. Detective Barrett then corrected her report.

The case went to trial on July 10, 2013. Because of his poor investigation and inability to accurately report what the victim told him at the time of the crime, my office did not call Officer Pollice as a witness. However, Officer Pollice was a witness in the case. He was the lead defense witness. As you know, it is often difficult to prove criminal cases involving victim identification. It is especially difficult when a police officer is called as a witness in a trial by the defendant and against the state. Officer Pollice's testimony was used by the defense attorney as a way to question the credibility of the victim in this case. The jury returned a verdict of not guilty on the charges of Grand Theft of a Firearm and Criminal Mischief.

Unfortunately, Sedrick Johnson has been released from jail instead of being punished for his actions. As you are aware, a thorough investigation, including correctly documenting the victim's account of the crime and properly collecting necessary evidence, is crucial to proving a case beyond a reasonable doubt in court. I again call on you to immediately review the training and supervision that LPD has in place.

Sincerely,

JERRY HILL
State Attorney